IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2545 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE KSHITIJ R.VYAS
and
HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PATEL MAGANBHAI SHIVDAS VALDAS

Versus

STATE OF GUJARAT

Appearance:

1. First Appeal No. 2545 of 1997

MR MEHUL SHARAD SHAH for Petitioner No. 1

MR KT DAVE,AGP for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE KSHITIJ R.VYAS
and
HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 23/09/2003

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE AKSHAY H.MEHTA)

Admit. Mr.K.T. Dave, learned AGP waives service of notice of admission.

With the consent of parties, the matter is taken up today for final disposal.

2. This appeal has been filed by the original claimant under section 54 of the Land Acquisition Act seeking additional compensation for the lands which have been acquired by the State of Gujarat on temporary basis. The lands have been acquired for ONGC on rental basis and the ONGC is still in possession of the lands. It appears from the record of this appeal that the lands are agricultural lands and the claimant, at the time of acquisition, was cultivating the same.

3. It also appears from the judgment dated 8.4.1996 of the Reference Court i.e.the Court of 2nd Joint District Judge at Mehsana which has been delivered in Reference Case No. 212 of 1990 and its allied matters that the Special Land Acquisition Officer had fixed compensation at Rs. 0.48 per sq.mt. per year as against the claim of Rs. 3.00 per sq.mt. per year made by the claimant. The Reference Court, after considering the entire material placed before it, came to the conclusion that the amount awarded by the Special Land Acquisition Officer was inadequate and it was required to be enhanced and as a result thereof, the Reference Court directed the respondent to pay additional Re.1.00 per sq.mt. per year to the claimant.

4. It is this decision of the Reference Court which is being challenged before this Court in this appeal.

5. Mr. M.S.Shah, learned Counsel appearing for the appellant has placed reliance on the judgment dated 8.9.1998 delivered by learned Single Judge of this Court in the matter of Dahyabhai Keshavlal Patel Vs. State of Gujarat, First Appeal No.2376 of 1997 and its cognate matters. Mr. Shah has contended that the learned Single Judge has held in the said judgment that the amount awarded by the Reference Court was on lower side and it was required to be enhanced by 0.68 paise per sq.mt. per year.

6. We have carefully gone through the said judgment which is in respect of the lands which have been acquired by the Project Manager, ONGC, Mehsana on rental basis along with acquisition of the present lands. On going through the judgment, we do not find any difference between the lands which have been acquired in the present

case and the lands which were the subject matter of said appeals. We have also perused the reasonings assigned by the learned Single Judge for enhancing the amount of compensation which was awarded by the Reference Court in respect of those lands. In our considered opinion, the said reasoning is absolutely just and legal and the same can be adopted in this judgment. On the basis thereof, in our opinion, the claim awarded by the Reference Court is required to be enhanced and accordingly we direct the respondent to pay additional amount of 0.68 paise per sq.mt.per year to the claimant till the time the possession is retained by ONGC.

It is also clarified that the respondent will be required to pay interest at the rate of 9% per annum on the additional amount which is being awarded in this appeal.

The net result is, this appeal is allowed. The respondent is directed to pay additional amount of 0.68 paise per sq.mt. per year together with interest at the rate of 9% p.a. on the additional amount.

(Kshitij R.Vyas,J.)

(Akshay H.Mehta,J.)

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